

## **REMARKS**

### I. Introduction

In view of the above amendments and the following remarks, reconsideration of the rejections and objections contained in the Office Action of April 1, 2009 is respectfully requested.

By this amendment, claims 1-4 and 6-11 have been amended, claim 5 has been cancelled without prejudice or disclaimer to the subject matter contained therin, and claims 12-19 have been added. Claims 1-4 and 6-19 are now pending in the application. No new matter has been added by these amendments.

The specification has been reviewed and revised. No new matter has been added by these revisions. Entry of the specification amendments is thus respectfully requested.

### II. Claim Objections

On page 2 of the Office Action, claims 1-2 are objected to regarding a minor informality. Those claims have been changed as suggested by the Examiner; withdrawal of the objections is thus respectfully requested.

### III. 35 U.S.C. § 112

Beginning on page 2 of the Office Action, claim 5 is rejected as failing to comply with the enablement requirement. This rejection is believed to be moot in view of the cancellation of claim 5. Withdrawal of the rejection is thus respectfully requested.

On page 3 of the Office Action, claims 4 and 8 are rejected as being indefinite. Claim 4 has been changed substantially as suggested by the Examiner, and claim 8 has been amended to

remove the allegedly unclear recitation. Withdrawal of these rejections is thus respectfully requested.

#### IV. Prior Art Rejections

Currently, claims 1-11 stand rejected over various prior art references including Walter et al. (US 2005/0001038), Bauer et al. (WO 02/018155), Phillips et al. (U.S. 2004/0101676), Kraus et al. (US 2002/0123235), and Winnik et al. (US 5,286,286).

Claim 1 is patentable over Walter et al., Bauer et al., Phillips et al., Kraus et al., and Winnik et al., for the following reasons. Claim 1 requires a method for the production of an antifalsification identification element including at least one layer reflecting electromagnetic waves, one spacer layer and one layer formed of metallic clusters, the method comprising applying a partial layer or an all-over layer which reflects electromagnetic waves onto a carrier substrate; after said applying the layer which reflects electromagnetic waves, applying at least one partial polymeric layer and/or all-over polymeric layer of defined thickness onto the carrier substrate to form the spacer layer; modifying the spacer layer by a process selected from a group consisting of a PVD process, a CVD process, and treatment with oxidizing fluids; applying a layer formed of metallic clusters onto the spacer layer, the layer formed of metallic clusters being produced by a method of vacuum technology or by solvent-based systems.

Claim 2 is patentable over Walter et al., Bauer et al., Phillips et al., Kraus et al., and Winnik et al., for the following reasons. Claim 2 requires a method for the production of an antifalsification identification element including at least one layer reflecting electromagnetic waves, one spacer layer and one layer formed of metallic clusters, the method comprising applying a layer formed of metallic clusters onto a carrier substrate, the layer formed of metallic

clusters being produced by a method of vacuum technology or by solvent-based systems; after said applying the layer formed of metallic clusters, applying at least one partial polymeric layer and/or all-over polymeric layer of defined thickness onto the carrier substrate to form the spacer layer; modifying the spacer layer by a process selected from a group consisting of a PVD process, a CVD process, and treatment with oxidizing fluids; and applying a partial layer or an all-over layer reflecting electromagnetic waves onto the spacer layer.

None of the prior art of record discloses modifying *the spacer layer* by a process selected from a group consisting of a PVD process, a CVD process, and treatment with oxidizing fluids, as required by claims 1 and 2. Further, it appears that there would have been no reason to modify any of the prior art to yield a configuration which meets the requirements of claim 1 or claim 2. It is thus submitted that the invention of the present application, as defined in claims 1 and 2, is not anticipated nor rendered obvious by the prior art, and yields significant advantages over the prior art. Allowance is respectfully requested.

Claims 2-4, 6-10, and 12-15 depend, directly or indirectly, from claim 1 and are thus allowable for at least the reasons set forth above in support of claim 1. Claims 11 and 16-19 depend, directly or indirectly, from claim 2 and are thus allowable for at least the reasons set forth above in support of claim 2.

In view of the foregoing amendments and remarks, inasmuch as all of the outstanding issues have been addressed, Applicants respectfully submit that the present application is now in condition for allowance, and action to such effect is earnestly solicited. Should any issues

remain after consideration of the response, however, the Examiner is invited to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,

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